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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
_____

Ex parte BRIAN JAMES DEHAMER and
SANKAR RAM SUNDARESAN
_____

Appeal 2009-005304
Application 10/652,988
Technology Center 2100
_____

Decided: March 25, 2010
_____

Before JOSEPH L. DIXON, THU A. DANG, and STEPHEN C. SIU,
Administrative Patent Judges.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

    This is a decision on appeal under 35 U.S.C. § 134(a) from the

Examiner's rejection of claims 1-20. We have jurisdiction under 35 U.S.C.

§ 6(b).

    We affirm.

Invention

The invention relates to a system and method for creating web applications (Abstract).

Independent claim 18 is illustrative:

> 18. A tangible machine readable medium, comprising:
>
> > code that is adapted to save a user's intended destination and subsequently recall that information to redirect the user back to the intended destination upon completion of the prerequisite.

Reference

The Examiner relies upon the following reference as evidence in support of the rejection:

Richard Han, et. al., *WebSplitter: A Unified XML Framework for Multi-Device Collaborative Web Browsing*, Proc. ACM 2000 Conf. on Computer Supported Cooperative Work, Dec. 2000, pp. 221-230 ("Han")

Rejection

Claims 1-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Han.

ISSUE 1

The Examiner finds that if Han "is without a save, the requested portion of the URL [uniform resource locator] (i.e. the XML [extensible markup language] or HTML [hypertext markup language] (10)) cannot be retu[r]ned in the browser of the session creator" (Ans. 7).

Appellants argue that "[s]ince the user's intended destination is the partial view corresponding to the login (prerequisite) that was entered, there is no need to save the user's intended destination for redirection to another, previous path" (App. Br. 19-20).

Issue: Did the Examiner err in finding that Han teaches saving a user's intended destination and subsequently recalling that information to redirect the user back to the intended destination?

ISSUE 2

Appellants contend that Han "fails to disclose a system or method for creating web applications" (Reply Br. 2).

Issue: Did the Examiner err in finding that Han teaches a system or method for creating web applications?

FINDINGS OF FACT

The following Finding of Fact (FF) is shown by a preponderance of the evidence.

Han teaches steps involved in establishing a multi-device collaborative browsing session that include:

> [a] proxy returns a session login menu requesting the . . . URL of the first XML Web page . . . . Then the proxy pulls the requested XML page . . . . [T]hen [the proxy] sends to the session creator a login menu requesting username and password . . . . After matching the session creator to a privilege group . . . . the portion of the requested XML page that the session creator is permitted to receive is returned to the session creator.

(p. 226).

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PRINCIPLES OF LAW

Claim interpretation

"In the patentability context, claims are to be given their broadest reasonable interpretations. . . . [L]imitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted). A claim meaning is reasonable if one of ordinary skill in the art would understand the claim, read in light of the specification, to encompass the meaning. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

A preamble recitation that merely expresses the purpose of the invention is non-limiting when the invention is fully set forth in the body of the claim. *See Bristol-Myers Squibb Co. v. Ben Venue Labs., Inc.*, 246 F.3d 1368, 1375 (Fed. Cir. 2001).

Anticipation

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

New Arguments

"[I]t is inappropriate for appellants to discuss in their reply brief matters not raised in . . . the principal brief[]. Reply briefs are to be used to reply to matter[s] raised in the brief of the appellee." *Kaufman Company v. Lantech, Inc.*, 807 F.2d 970, 973 n.* (Fed. Cir. 1986). "Considering an

argument advanced for the first time in a reply brief . . . is not only unfair to an appellee but also entails the risk of an improvident or ill-advised opinion on the legal issues tendered." *McBride v. Merrell Dow and Pharms., Inc.*, 800 F.2d 1208, 1211 (D.C. Cir. 1986) (internal citations omitted). "The failure to raise all issues and arguments diligently, in a timely fashion, has consequences." *Ex parte Borden*, 93 USPQ2d 1473, 1475 (BPAI 2010) (informative decision).

ANALYSIS

Issue 1

Appellants challenge the Examiner's finding that Han teaches saving a user's intended destination and subsequently recalling that information to redirect the user back to the intended destination. We are not persuaded by Appellants' arguments.

Han teaches a proxy that requests a URL from a user (FF). The proxy then pulls the requested XML page (*id.*), which is the user's intended destination. This intended destination is not immediately returned to the user. Instead, the proxy sends the session creator a login menu requesting a username and password (*id.*). After this information is provided, enabling the proxy to determine the user's privileges, the proxy returns the portion of the requested XML page that the session creator is permitted to receive (*id.*).

Because the requested XML page is not immediately returned to the user, a skilled artisan would have understood that the proxy saves the user's intended destination (i.e., either the URL or the XML page data) for the

page's subsequent return to the intended destination. If the proxy failed to save such information, then the proxy would have to re-request the intended destination before the proxy could redirect the user to the intended destination. However, Han performs no such step, demonstrating that the intended destination is saved (FF). Therefore, Han teaches saving a user's (session creator's) intended destination (URL or XML page data) and subsequently (not immediately) recalling that information (URL or XML page data) to redirect (return a portion of the requested XML page) the user back to the intended (requested) destination.

We are not persuaded by Appellants' assertion that "the proxy merely *directs* the user to a particular view (a portion) of the intended destination . . . but not to the intended destination itself" (Reply Br. 5). Appellants do not show that redirection precludes processing of the intended destination as part of the redirection. While we find that Han's redirection includes limiting the returned information to portions that the user is permitted to receive, Appellants claims are open-ended, merely comprising redirection. Therefore, we find that Han discloses redirecting the user back to the intended destination (for the limited information), as claimed.

For at least these reasons, we find no error in the Examiner's 35 U.S.C. § 102(b) rejection of claims 1-20 with respect to this issue.

Issue 2

In the Reply Brief, Appellants add the argument that the Examiner erred in rejecting claims 1, 8, and 15 because "the Han references fails to disclose a system or method for creating web applications" (Reply Br. 2).

However, Appellants' efforts to argue claims 1, 8, and 15 separately from claim 18 are belated. In the Appeal Brief, claims 1, 8, 15, and 18 are consistently argued as a group (App. Br. 17-20). Therefore, we will decide the appeal with respect to issue 1 on the basis of representative claim 18 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claim 18 is not limited to a system or method for creating web applications. Therefore, Appellants argue limitations not found in the representative claim.

Even if claims 1, 8, and 15 had been argued separately in the Appeal Brief, we would not find Appellants' position compelling. The "creating web applications" recitation only appears in each claim's preamble. Appellants offer no evidence to show that this recitation is anything more than a non-limiting expression of purpose. *See Bristol-Myers*, 246 F.3d at 1375.

For at least these reasons, we find no error in the Examiner's 35 U.S.C. § 102(b) rejection of representative claim 18, and claims 1-17, 19, and 20 falling therewith, with respect to this issue.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err:

1. in finding that Han teaches saving a user's intended destination and subsequently recalling that information to redirect the user back to the intended destination (Issue 1); and

2. in finding that Han teaches a system or method for creating web applications (Issue 2).

DECISION

We affirm the Examiner's decision rejecting claims 1-20 under 35 U.S.C. § 102(b).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc

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